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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,261	01/30/2006	Hiroshi Tanaka	040894-7375	1702

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EXAMINER
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BRAKEWOOD, CANDACE ELIZABETH

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/566,261

Applicant(s)

TANAKA ET AL.

Examiner

Candace Brakewood

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/30/2006</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed January 30, 2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. In particular, an adequate statement of relevancy or translation for Japanese Patent A-63-207569 is required. It should be noted that the submitted International Search Report is not in English.

### ***Drawings***

2. The drawings are objected to because the reference numeral "12" in Fig. 4 does not point to the "upper wall".
3. The drawings are objected to because the reference numerals "10" and "20" have both been used to designate the combustion chamber in the specification. The reference numeral "20" is found in line 21 of page 13 of the specification.
4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

Art Unit: 3721

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The abstract of the disclosure is objected to because there is a typographical error. In line 6, the word "is" should be --in--. Correction is required. See MPEP § 608.01(b).

6. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with grammatical errors and terms that are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

- On page 1, line 7, the phrase "in which a gaseous mixture are formed" is grammatically incorrect because it has a singular subject with a plural verb.
- On page 3, line 24, the phrase "in the related art gas combustion type impact tool" appears to be missing a word.
- On page 4, line 1, the phrase "the air flow and the combustible gas is injected" is grammatically incorrect because it has a plural subject with a singular verb.

- Line 25 of page 4 though line 19 of page 5 is a verbose run-on sentence.

Another example of a run-on sentence in the disclosure begins in line 13 of page 6 and ends in line 14 of page 7.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishikawa et al. (6,695,195). In the prior art disclosure of Nishikawa et al. ('195), a combustion powered nail gun (1, Fig. 1) having a combustion chamber (5), cylinder (4), piston (10), injection nozzle (22, column 2, lines 33-36), rotary fan (6) and ignition device (9, column 1, lines 52-53) is disclosed. Nishikawa et al. ('195) further disclose the use of ribs (24) that are formed as walls projecting into the combustion chamber (column 1, lines 54-55) and are deemed capable of generating vortices upstream of the injection nozzle and retaining the gaseous mixture near to the ignition device.

Regarding claims 5 and 10, the ribs are structured by a common member (5).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moeller (6,619,527), Ricordi (6,863,045), Adams et al. (6,755,159), Adams (US2002/0144498), Ohtsu et al. (US2006/0225674), Shima et al.

Art Unit: 3721

(6,983,871), Nishikawa et al. (US 2005/0156007), Nishikawa et al. (US 2006/0186165), Nishikawa et al. (6,951,194) and Nishikawa et al. (US 2006/0151565) are cited to show related inventions.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Candace Brakewood whose telephone number is 571-272-3115. The examiner can normally be reached on Monday-Thursday, 7am-5:30pm.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CEB  
Candace Elizabeth Brakewood  
Examiner  
Art Unit 3721  
October 31, 2006



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700